Remarks

Claims 1-19 are pending in this application. Claims 1-5, 8, 9, 12, 13, 15, 16, 18 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Klosterman et al. (U.S. 2001/0013124). Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Ten Kate (U.S. 6,601,237). Claims 7, 10, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Picco et al. (U.S. 6,029,045). Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Kunkel et al. (U.S. 2002/0056093).

Applicants have further limited the claims to ensure that claims relate to the construction of an advertisement using segments which are not themselves full ads. Construction of an advertisement is a fundamentally different process than insertion of an advertisement and may be thought of somewhat analogously to the difference between constructing a molecule from atoms versus using fully built molecules. Applicants are aware of no prior art to their approach in constructing ads and has had this affirmed by numerous industry experts. As explained below, Applicants seek an interview to ensure that the claims are not overreaching while enabling protection for its novel approach.

Rejections under 35 U.S.C. 102(e)

Claims 1-5, 8, 9, 12, 13, 15, 16, 18 and 19 have been rejected under 35 U.S.C. 102(e) as anticipated by Klosterman.

Applicants traverse the rejections, however have amended claims 1, 16 and 19, herein to advance prosecution. Applicants respectfully submit that independent claims 1, 16 and 19 are patentably distinct and are in condition for allowance. Klosterman does not disclose or suggest

creating a personalized advertisement template comprising a plurality of media slots in sequence, wherein a plurality of different media segments are insertable into at least one of said slots and wherein each of the different media segments is a portion of the personalized advertisement. Klosterman teaches a system in which whole advertisements are spliced into broadcasts as segments. As the Examiner points out, Klosterman states:

> [T]he present invention will provide systems and methods that will allow a network to set up multiple channels of advertising, e.g., FOX, FOX1, FOX2, etc. Each channel could provide a separate program of advertising synchronized in time to coincide with advertising delivered on the main channel, e.g., FOX. Using the present invention, the television set of an individual viewer who is watching the SuperBowl on FOX, will be automatically tuned, in a manner invisible to the viewer, to one of the multiple FOX channels during a commercial break. In one embodiment, the television set automatically tunes in a serial manner to one or more of the multiple FOX channels. Klosterman, Para. 0030.

Klosterman provides high-level, separate channels of advertising that may be selectively tuned to a viewer's television during a commercial broadcast period. Klosterman does not disclose, nor does it teach or suggest, the creation of personalized advertisements on an atomic level such as the methods and systems of claims 1, 16 and 19.

Independent claim 1 recites a personalized advertising template comprising media slots in sequence and media segments insertable into those media slots. The media segments are, in and of themselves, portions of content and not an entire advertisement. Klosterman does not disclose media segments insertable into media slots which then are transmitted as a data stream. Klosterman does not personalize advertising content on such a low-level. Klosterman provides whole channels of block advertisements offered to a selected user on one of many separate broadcast channels.

Analogously, Klosterman teaches replacing television signals at a molecular level. In a typical broadcast stream, such as the Superbowl, when a commercial break arrives, several whole channels (FOX1, FOX 2, etc) are broadcast and one of those channels is selected to be inserted into a particular viewers broadcast stream, i.e. one viewer may see an entire advertisement for auto parts, while another viewer on a different television may see a restaurant advertisement at the same time.

Contrastingly, independent claim 1 creates a personalized advertisement on an atomic level. The media segments of claim 1 are portions of an advertisement that are inserted into a sequence of media slots which then are transmitted as a data stream. The media segments are not whole separate channels of complete advertisements blocked into a regularly scheduled commercial break.

Because Klosterman does not reach the microscopic level of customization claimed in claim 1, i.e., creating a personalized advertisement template comprising a plurality of media slots in sequence, wherein a plurality of different media segments are insertable into at least one of said slots and wherein each of the different media segments are a portion of the personalized advertisement, Klosterman cannot anticipate the claim.

Independent claims 16 and 19 recite substantially identical features as those described above in claim 1 and are also patentably distinct from Klosterman. Claims 2-15 and 17-18 by virtue of their dependency on Claims 1 and 16, respectively, are also patentably distinct and are in condition for allowance.

Rejections under 35 U.S.C. 103(a)

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Ten Kate (U.S. 6,601,237). Claims 7, 10, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Picco et al. (U.S. 6,029,045). Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman in view of Kunkel et al. (U.S. 2002/0056093).

Claims 6, 7, 10, 11, 14 and 17 are dependent claims and for the reasons stated above are patentably distinct from the cited references. Further, none of Klosterman, Ten Kate, Picco, and Kunkel, alone or in combination, disclose each and every feature of the independent and dependent claims, and therefore do not render the claims obvious.

Request for an Interview

Applicants consider all currently pending claims of the application to be distinct and patentable over the references cited by the Examiner. Should the Examiner still have concerns over the patentability of these claims, Applicants respectfully request an opportunity to discuss these concerns with the Examiner in the form of an Interview. The Examiner should feel free to contact the undersigned attorney at his convenience to schedule such an interview. In any event, Applicants will contact the Examiner in hopes to schedule the interview prior to the issuance of the next action, should it be unfavorable to the Applicants.

CONCLUSION

For at least the reasons outlined above, Applicants submit that this application is in condition for allowance and request favorable action in the form of a Notice of Allowance. Please apply any charges or credits to Deposit Account No. 50-1721.

Respectfully submitted,

Date: July 25, 2008
Reg. No. 54,146

/George S. Haight IV/

George S. Haight IV
Attorney for Applicant(s)
K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, Massachusetts 02111-2950

Tel. No.: (617) 261-3100
Fax No.: (617) 261-3175